

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

7 HARRY E. BENCOMA,
8 Plaintiff,
9 v.
10 WARDEN STROOT et al.,
11 Defendants.
12

2:16-cv-00385-RFB-GWF

ORDER

I. DISCUSSION

14 On February 24, 2016, Plaintiff, a prisoner in the custody of the Nevada Department
15 of Corrections (“NDOC”), submitted a civil rights complaint pursuant to 42 U.S.C. § 1983 but
16 did not file an application to proceed *in forma pauperis* or pay the filing fee for a civil action.
17 (ECF No. 1). On February 26, 2016, this Court issued an order directing Plaintiff to file an
18 application to proceed *in forma pauperis* or to pay the full filing fee. (ECF No. 2). On March
19 29, 2016, the Court granted Plaintiff an extension of time to file his application to proceed *in*
20 *forma pauperis*. (ECF No. 4). On April 20, 2016, Plaintiff submitted a financial certificate and
21 an inmate account statement. (ECF No. 5).

Pursuant to 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, Plaintiff must complete an application to proceed *in forma pauperis* and attach both an inmate account statement for the past six months and a properly executed financial certificate. Plaintiff has not submitted pages 1 through 3 of the application to proceed *in forma pauperis*. (See ECF No. 5). As such, the *in forma pauperis* application is denied without prejudice. The Court will retain Plaintiff's civil rights complaint (ECF No. 1), but will not file it until the matter of the payment of the filing fee is resolved. Plaintiff will be granted one final opportunity to cure the deficiencies of his application to proceed *in forma pauperis*, or in the alternative, pay the full filing fee for this

1 action. If Plaintiff chooses to file a new application to proceed *in forma pauperis* he must file
2 a fully complete application to proceed *in forma pauperis*. If Plaintiff files another incomplete
3 application to proceed *in forma pauperis*, the Court will dismiss the case in its entirety, without
4 prejudice, to file a new case when Plaintiff is able to acquire the necessary documents to file
5 a complete application to proceed *in forma pauperis*.

6 **II. CONCLUSION**

7 For the foregoing reasons, IT IS ORDERED that Plaintiff's application to proceed *in*
8 *forma pauperis* (ECF No. 5) is DENIED without prejudice to file a new application.

9 IT IS FURTHER ORDERED that the Clerk of the Court **SHALL SEND** Plaintiff the
10 approved form application to proceed *in forma pauperis* by a prisoner, as well as the document
11 entitled information and instructions for filing an *in forma pauperis* application.

12 IT IS FURTHER ORDERED that within **thirty (30) days** from the date of this order,
13 Plaintiff shall either: (1) file a fully complete application to proceed *in forma pauperis*, on the
14 correct form with complete financial attachments in compliance with 28 U.S.C. § 1915(a); or
15 (2) pay the full \$400 fee for filing a civil action (which includes the \$350 filing fee and the \$50
16 administrative fee).

17 IT IS FURTHER ORDERED that, if Plaintiff's next application to proceed *in forma*
18 *pauperis* is incomplete, the Court will dismiss the case, without prejudice, for Plaintiff to file a
19 new case when he is able to acquire the necessary documents to file a complete application
20 to proceed *in forma pauperis*.

21 IT IS FURTHER ORDERED that if Plaintiff does not timely comply with this order,
22 dismissal of this action may result.

23 IT IS FURTHER ORDERED that the Clerk of the Court shall retain the complaint (ECF
24 No. 1), but shall not file it at this time.

25

26 DATED: This 25th day of April, 2016.

27 
28 United States Magistrate Judge